

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

22-CV-957-LJV-HKS
DECISION & ORDER

\$92,550 UNITED STATES CURRENCY,

Defendant.

On December 19, 2022, the United States filed a verified complaint for the forfeiture of \$92,550 in United States currency (the “defendant currency”) under 21 U.S.C. § 881(a)(6). Docket Item 1. On January 13, 2023, Henry Oliver filed a claim to the defendant currency, Docket Item 6, and on February 17, 2023, he answered the complaint, Docket Item 7. This Court then referred the case to United States Magistrate Judge H. Kenneth Schroeder, Jr., for all proceedings under 28 U.S.C. § 636(b)(1)(A). Docket Item 8.

On February 28, 2023, the United States moved to strike Oliver’s claim and answer. Docket Item 11. On March 6, 2023, Oliver responded to the motion to strike, Docket Item 14, and on March 10, 2023, the United States replied, Docket Item 15. On July 25, 2023, Judge Schroeder issued a Report and Recommendation (“R&R”) finding that the United States’ motion should be denied. Docket Item 16.

No objections to the R&R were timely filed. But because this Court’s first referral order under 28 U.S.C. § 636(b)(1)(A) may not have covered the United States’ motion to strike, this Court expanded its prior referral order to include 28 U.S.C. § 636(b)(1)(B),

accepted the R&R as filed within that expanded order, and extended the time for the parties to object to the R&R until August 31, 2023. Docket Items 17, 18. The parties did not object to the R&R, and the extended time to do so now has expired. See Docket Item 18.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Schroeder's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Schroeder's recommendation to deny the United States' motion to strike.

For the reasons stated above and in the R&R, the United States' motion to strike, Docket Item 11, is DENIED. The case is referred back to Judge Schroeder for further proceedings consistent with the expanded referral order of August 16, 2023, Docket Item 17.

SO ORDERED.

Dated: September 5, 2023
Buffalo, New York

/s/ **Lawrence J. Vilaro**
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE